



U.S. Department of Justice

United States Attorney
Southern District of West VirginiaUnited States Courthouse
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Beckley, West Virginia 25801PHONE: (304) 253-6722
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October 5, 2004

FILED

OCT 13 2004

Neva G. Lusk, Esquire
P.O. Box 273
Charleston, WV 25321-0273Re: United States v. Raders Run Mining, LLC
Criminal No. 5:03-00257 (USDC SDWVa)

Dear Ms. Lusk:

This will confirm our conversations with regard to your client Raders Run Mining, LLC (hereinafter "Raders Run"). As a result of these conversations, it is agreed by and between the United States and Raders Run as follows:

1. **PENDING CHARGES.** Raders Run is charged in a one-count information with a violation of 30 U.S.C. § 820(d) (wilful violation of mandatory safety standard).
2. **RESOLUTION OF CHARGES.** Raders Run will plead guilty to a violation of 30 U.S.C. § 820(d) (wilful violation of mandatory safety standard) as charged in said information. Following final disposition regarding Raders Run, the United States will move the Court to dismiss the charge contained in said information as to Midland Trail Resources, LLC.
3. **MAXIMUM POTENTIAL PENALTY.** The maximum penalty to which Raders Run will be exposed by virtue of this guilty plea is as follows:

RADERS RUN MINING, LLC

By: 
MEMBEROct. 6, 2004
Date SignedNEVA G. LUSK
Counsel for DefendantOct. 6, 2004
Date SignedGOVERNMENT
EXHIBIT

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Re: Raders Run Mining, LLC

- (a) A fine of \$200,000 or, if the Court determines that the offense in this case is a misdemeanor resulting in death, \$500,000, or twice the gross pecuniary gain or twice the gross pecuniary loss resulting from defendant's conduct, whichever is greater;
- (b) A five-year term of probation; and
- (c) A mandatory special assessment of \$125 pursuant to 18 U.S.C. § 3013.

4. **SPECIAL ASSESSMENT.** Prior to the entry of a plea pursuant to this plea agreement, Raders Run will tender a check or money order to the Clerk of the United States District Court for \$125, which check or money order shall indicate on its face the name of defendant and the case number. The sum received by the Clerk will be applied toward the special assessment imposed by the Court at sentencing. Raders Run will obtain a receipt of payment from the Clerk and will tender a copy of such receipt to the United States, to be filed with the Court as an attachment to this plea agreement. Failure by the defendant to provide proof of payment of the special assessment prior to or at the plea proceeding will automatically void this plea agreement. In the event this plea agreement becomes void after payment of the special assessment, such sum shall be promptly returned to Raders Run.

5. **REMEDIAL ORDER.** Raders Run shall submit to the U.S. District Court Clerk a check in the amount of \$50,000 (fifty thousand dollars) made payable to "U.S. District Court Clerk" prior to final disposition. At or after final disposition the \$50,000 shall be distributed by the Clerk as follows:

RADERS RUN MINING, LLC

By: *[Signature]*

MEMBER

Oct. 6, 2004
Date Signed

Neva G. Lusk
NEVA G. LUSK

Counsel for Defendant

Oct. 6, 2004
Date Signed

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- (a) \$40,000 (forty thousand dollars) shall be paid, pursuant to a remedial order entered by the Court pursuant to U.S.S.G. § 8B1.2, to Mrs. Bonnie Martin, widow of the late Gary Martin; and
- (b) \$10,000 (ten thousand dollars) shall be paid, pursuant to a remedial order entered by the Court pursuant to U.S.S.G. § 8B1.2, to Mr. Larry Williams.

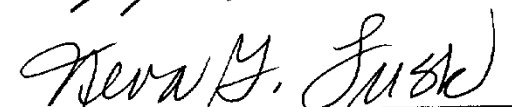
6. **FINAL DISPOSITION.** The matter of sentencing is within the sole discretion of the Court. The United States has made no representations or promises, and will make no recommendation, as to a specific sentence. However, the United States reserves the right to:

- (a) Inform the Probation Office and the Court of all relevant facts and conduct;
- (b) Address the Court with respect to the nature and seriousness of the offense;
- (c) Respond to questions raised by the Court;
- (d) Correct inaccuracies or inadequacies in the presentence report;
- (e) Respond to statements made to the Court by or on behalf of Raders Run;
- (f) Advise the Court concerning the nature and extent of Raders Run's cooperation; and

RADERS RUN MINING, LLC

BY: 
Its Member

Oct. 6, 2004
Date Signed


NEVA G. LUSK
Counsel for Defendant

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- (g) Address the Court regarding the issue of Raders Run's acceptance of responsibility.

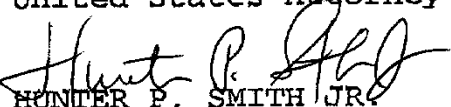
7. **VOIDING OF AGREEMENT.** If either the United States or Raders Run violates the terms of this agreement, the other party will have the right to void this agreement. If the Court refuses to accept this agreement, it shall be void.

8. **ENTIRETY OF AGREEMENT.** This written agreement constitutes the entire agreement between the United States and Raders Run in this matter. There are no agreements, understandings or recommendations as to any other pending or future charges against Raders Run in any Court other than the United States District Court for the Southern District of West Virginia.

Acknowledged and agreed to on behalf of the United States:

KASEY WARNER
United States Attorney

By:



HUNTER P. SMITH JR.
Assistant United States Attorney

HPS/das

I hereby acknowledge by my signature at the bottom of each page of this five-page agreement that I have read, understand and agree to each of the terms and conditions set forth in this agreement.

RADERS RUN MINING, LLC

By: 


NEVA G. LUSK
Counsel for Defendant

Oct. 6, 2004
Date Signed

Oct. 6, 2004
Date Signed